

<p style="text-align: center;"><b>PLANNING BOARD MINUTES</b> <b>October 14, 2003</b></p>
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**Members Present: Helen Lemoine, Ann V. Welles, Carol Spack, Thomas F. Mahoney, Laurence W. Marsh**  
**Also present: Jay Grande, Planning Board Administrator**

**I. Miscellaneous Administrative**

**Approval of Meeting Minutes for Jan. 28 and Feb. 4**

**(Helen) Is there a Motion to Approve the Minutes of January 28 with the minor edits? 2<sup>nd</sup>? 2<sup>nd</sup>. Any further comments? 4 members present. All those, who were present at that hearing, in favor? Opposed? Abstaining? Let the record show, 3 in favor, none opposed and Carol and myself abstaining.**

**(Helen) Is there a motion to accept the minutes of February 4 with minor edits? I move. Is there a 2<sup>nd</sup>? 2<sup>nd</sup>. Any further discussion? All those in the affirmative, say I? I. Abstaining? Larry abstaining. Carol Not voting. 3-0-1.**

**Some discussion on voting process and dilemma with members voting on approval of minutes when they were absent from the actual hearing itself.**

**Doc. 943-03 ~ (Attorney Neven Rabadjija Peter Barbieri representing wayside Realty Trust)**

We have requested a Bond reduction because one had been done earlier this year or the end of last year and essentially the work has been completed with the exception of the work on the lots and as a result the final coat pavement so we ask for a final buy bond estimated on that basis and I guess John has given that to you for \$73,600 which the big item, from the viewpoint of the infrastructure, is the final pavement on the road, probably half of that is individual lots: the lot grading, the foundation, the leaking systems. If you recall, those are all part of the requirements for submission of the lot development plans for each lot and they have to be built as part of that process so John's appropriately included them in there so we are hoping to get acceptance of that. The timing from the viewpoint of the placement is up in the air ~ Chris has been doing all of the banking with Bay State. Bay State has been bought out by countless banks so I don't know what their approval process is, it may take a month or so to get that done, but these, I do believe, are going to be put up in all likelihood a standard letter of credit for the \$73,600. And that would be monetary security for the completion rather than ultimately a covenant which we would ask to be released once we put that substitute security in front of you.

Q&A w/board members re: structure, original bond, building permit, lots, engineering, 1999 bid and inflation factor, BOH, draining and well water issues, length of time with bond issue re: incomplete subdivision. **(Larry)** I suggest we put the bonding issue on hold until they get some more input regarding the issues. **(Peter)** I suggest we review all

subdivisions and appropriate bond estimates on an annual basis provided the construction goes beyond a 2-year period. I could do an amendment of this covenant for the Board to look at. **(Ann)** I agree with Larry, I'm worried that they don't know what they are trying to bond, I suggest to have John Bertarelli verify that these numbers are based on 3 year window from today, and ask John to double and triple check that we are allowing enough money for if we have to take the responsibility for erosion control. **(Helen)** Board's wish to continue discussion until Jay, Peter and John Bertarelli have a chance to do the financial breakdown **(Peter)** We want to make sure we extended another year anyways, we can't finish anything now.

## **II. Continued Public Hearing, Definitive Subdivision Plan Review, Special Permit for OSRD, Modification to a Scenic Road, and Public Way Access Permit, Ford's Meadow, 45 Nixon Road**

Paul Galvani, Attorney in Framingham, I represent the applicant for the development and to my right, Joe Sullivan, McCarthy and Sullivan Engineering of Framingham, and Stewart Mayer, the developer.

**(Helen)** Jay, I know our initial agenda for this public hearing was to include a report of our 593 Consultants but our 593 and the applicant engineering folks have not yet completed their work back and forth and GZA will have a report for us in a couple of weeks. **(Jay)** The Consultants met with the BOH and the Town Engineer on Sept. 29 to review the proposed septic system and I believe the Consultants have also been working on the drainage plan in question. The applicant submitted a response to GZA and the BOH and that response will require at least 2 weeks for our Consultant to turn around and review. Peter Baril wanted the Board to know that the next 2 weeks they would come to a conclusion on the storm water surface, storm water system as well as on the septic. I did meet with the BOH Director and Town Engineer today for an infrastructure meeting and asked them if it was correct to say if the septic system was workable but not receiving final approval. That was confirmed today as well ~ that it is a workable system. I do expect the BOH director, Bob Cooper, to send us a letter with the conditions that he would recommend on the system so in addition to the letter from GZA, some final letter from the BOH with specific condition approval could be discussed. There was a concern on ownership of the open space by the BOH and Town Engineer. They are of the strong opinion, and this would probably be a condition of their approval, that this open space area should remain in the ownership of the homeowners. Because of the wells and the other structures related to the wells, the access road and the easement area could be given to the SBP recreation open space purposes. I haven't gotten any formal reasons for that, I was not privy to that specific discussion, but I think there is some concern they want the ability to have the homeowners to maintain their space and not some other owner.

**(Helen)** Outline: open space discussion; recap the waiver discussion, what GZA will be looking at. **(Jay)** I forwarded 2 GZA outstanding waivers that relate to the grade issue at the end of the road. There were a couple of items that need to be addressed by GZA specifically. There are other concerns as we get into the open space discussion.

### **Commence Open Space Discussion**

**(Paul)** <pointing out areas on plans that they are discussing> The situation now requires a municipal well supply which has this whole umbrella of state requirements, one of which is a 250 ft. Protective Zone 1 aquifer area. We set our well in this location and we have water quality tests which have not been submitted to DEP formerly but through exploration of our own. We have no issues on water quality, except for a little bit of iron in the water, which isn't a health issue it is a standing issue and it becomes a problem to be filtered. We set the pump at 400 ft. and we pumped initially 20 gal/min and dropped it down to 11gal/min <end of tape> 15,000 gallons per day but I understand DEP cautionary level drops whatever the potential is to drop by 25%, so some are around 12,000 against the required 9,0000 gallons. The water tests have been completed and with that we started the DEP process. Any questions on the well issue?

With respect to open space, I did attend a meeting with John Bertarelli, Bob Cooper, all the Consultants, Joe and myself. In fairness, John made a very good point ~ it doesn't seem right, as with any town with a municipal water supply to have the underlying land on which the well supply is located, owned by somebody else. And I agree with him. That doesn't make a whole lot of sense. When we started out, the well was somewhere else and it was just a different scenario. We, as a proponent, don't have a problem with that request. We are in the process of talking to some of Sudbury valley Trustees about inverting the equation, basically granting Sudbury Valley Trustees a conservation easement over the property with the understanding that there is a small area that will have some improvements. If you review the SRD by-law, it allows for septic systems or wells, and there were limitations on the size of it, but the plan we had before was not inconsistent with the scope of the SRD, as I understand it. What we are really dealing with, is these components on top of the hill. John Bertarelli has requested that we have a back-up well site, it could be as close as 50 ft. from the original site, just in case something happens with the first well and to make very, very sure that we can get ourselves back up to the site if we have to set another well. The ground line there is the somewhat unapproved road or trail that we have been using preliminarily to get up to the well site. John is requesting a system be approved and that the Homeowner's Association maintain it, winter, spring, summer or fall, so that a truck can basically get up there. Secondly, I understand from our hydrologist that a 8x14 ft. shed houses the pump hardware that operates this well. And the third piece is a 20,000-gallon storage tank that maintains a 2-day backup water supply that would be fed down the hole by gravity. It could be buried, partially buried and that is what we would intend to do. We would drop it as much as we could. And finally, a water line and an electric line down the hill to the existing house where the infrastructure is going to be gathered in a 3 bay home. That is what is involved and the requests from engineering.

### **Discussion with Board Members**

**(Larry)** Is this what was intended? **(Paul)** I ask myself that same question, how far off base are we getting with respect to the intent of the OSRD? Let me just read from Section 4-G ~ a portion of the open space may be used for construction of leaching areas associated with septic disposal systems or for water supply wells serving the OSRD, common open space shall be subject to easements for construction, maintenance and repair, utility and drainage facilities, there is a stipulation that that kind of thing can't

exceed 5% off the aggregate open space. I haven't calculated, but I don't think so. The suggestion was that the homeowners retain ownership due to the fact that the aquifer protection area is within the open space but that all control with respect to conservation be given to others and maintained by conservation restriction, otherwise, all the same constraints with respect to conservation would be overlay onto the property. The only deviation would be that there would be an access road maintained through it, and the couple things I mentioned: the pump and the tank would exist within the 19 acres.

**(Larry)** The Homeowner's Association would maintain all the open space land under this proposal? **(Paul)** Yes and under the OSRD, it appears to be allowed. **(Ann)** The phrase I

think we are talking about is G4 or G5? From G5, the 5% applies to uses accessory to the open space use. So it isn't that you can impose a 5% development for other purposes but with respect to the actual use of it as open space you may impose 5%. I would not regard the water system as an accessory use to the use of the open space as open space. **(Paul)**

To reference the items above it: #3, the space may be used for septic disposal or for water supply wells, but maybe the 5% doesn't apply to that, I kind of presumed it did, but maybe it doesn't. Maybe there is no percentage. My only comment is that the ownership issue is allowable and certainly at the discretion of the Board but with respect to the functions that are being proposed to operate within the area, they were taken into account when the OSRD was offered. **(Helen)** We spent a year coming to a conclusion that we all

liked so I'm very surprised at the Town Engineer's recent discussion with the proponent and others without change, but it makes sense. As long as it is going to be a requirement of our Town Engineer, unless we want to discard our Town Engineer's recommendation and therefore get a "no go" from our Town Engineer and BOH, and then we have to put in a position of having to make a decision on a worthy project going against the Town Engineer and the BOH simply because we don't like the ownership scheme. It seems the ownership scheme is now irrelevant but what is relevant now is that the open space is open space in perpetuity and should be used as such. I don't see that anything changes ~ if it's going to be open space, then the town wants the underlying ground to be in ownership of the Homeowners Association. **(Paul)** Each site is unique. We were covering all situations. It's not going to be the policy on everyone. **(Helen)** The roadway is not going to be any different than the trail that exists now, except that it will be a maintained access? **(Paul)** We're not moving it, we are going to follow it and my suggestion would be to pave it with pervious asphalt that allows groundwater infiltration but does allow trucks to get up there in winter, if they have to. **(Ann)** Policy question regarding the

Section G Zoning By-Laws: Use of the Common Open Space. I think the Board would find it useful to have 2 things: first, from the applicant, a demonstration to what extent you do use the space, you can estimate this less than 5%, but if you could document for the Board so we could agree or disagree with how you codify it, and separately the legal question of how the use of open space does dictate how we interpret these sections 1-6. Q&A re: maintaining access road, grading, open space design. **(Larry)** Who will be held responsible for the road if it is not maintained? **(Paul)** The maintenance obligation is to SVT. **(Carol)** What measure should we take for liability? **(Paul)** That is a great question and I'm not prepared to answer it at this time. **(Ann)** With respect to a Sudbury Valley Trustees conservation easement, whom are they serving? Is it a public interest, they are non-profit, and if their role is to provide access to open space to the public, is that compatible with this open space design, which looks like it is primarily intended to serve

private homeowners? I would infer that private homeowners could exclude the public from walking up the street to look at one access point, is Sudbury Valley Trustees prepared to say that it would enforce that single parking space on Nixon Road as the only public space? **(Paul)** We had talked about maximum 3-4 spaces but I've done a fair amount of hiking in SVT territory myself and it is not at all unusual to have one access to one of the parcels. Parcels do come in all shapes and forms and they are happy to have them. There are 100+ acres behind here but the request was made quite sometime ago by other landowners and abutting landowners who would not make representation and I think in fairness it's not open season to walk all over the 100 acres as a matter of right. As a matter of practice, I don't there are any issues with it. In terms of separate valid Trustees and the trail network, this is an access. There is also an access existing on Wayside road now on SVT land, so there are multiple accesses to this aggregate open space.

**(Helen)** Can I assume that we have consensus from the Board that we have on the integration of the open space? **(Paul)** Yes.

Does SVT have any land that abuts this open space? No.

So the really only access point is that narrow strip down the road. What is the terrain like at this point? Is it useful access? Yes.

How much necessity for clearing trees for the construction? This area adjacent to the access road is already cleared. The only subsequent disturbance would be the settling the tank at or below grade and backfilling all or portions of it. Nothing else should occur. The nature of the well is not particularly invasive and the shed is the size of a backyard garden shed.

Any estimate of acreage? I've estimated 6,000 – 8,000 sq. ft. It's not much bigger than the size of this room. As far as any additional work other than settling the tank, there is none.

#### **Discussion on size of road and parking.**

**(Larry)** Clarification: There are 19 acres involved in the open space and no SVT abutting properties and no conservation property abutting this. Has the applicant done anything for sighting a fire pond in relation to all the open space? **(Paul)** Great question. The sequence for us was to understand the situation with the well and its production capability and then to provide fire protection as necessary. We have not yet met with the fire department with the well information, but our proposal will be to provide a 2<sup>nd</sup> 20,000 gallon tank down below, probably under the roadway, as secondary storage. There is an arrangement where that water will have access in addition to the storage up on the hill for an aggregate of 40,000 gallons for fire protection. That is where we are heading. **(Jay)** Request for waiver of requirement for a traffic study and I have not seen any justification for a traffic study at this point. Is there any sense that there is a concern with the level of service?

**(Ann)** That issue becomes germane if the Planning Board decides to connect to the adjacent parcel and the traffic capacity in the future would be a different order of magnitude then this specific development. So I think we need to make a decision about one before we grant waivers on this topic. **(Jay)** Is the Board in Agreement that based on the prior decision, we will waive the requirement? Yes.

(**Jay**) Discussion on snow storage and on-street parking, what is the proposal? The Board was not in favor of specifying off-site parking or specifying snow storage. DPW had a different take on it so we are not quite sure where to go. We could provide both or neither. I don't think anyone has suggested parking lots, we've talked about widening certain areas but the overall thinking was that the driveways to the homes should be sufficient. (**Helen**) What was Mr. Bertorelli particular recommendation? (**Paul**) He was looking for specific and isolated parking and snow storage areas as being designated as such. Our approach was a little softer. (**Jay**) Our requirement is to meet the By-Law. On snow storage, typically we identify a planned snow storage easement but in this case, most of the snow will be piled up on the side of the road, so I don't think we've identified anywhere on the plan other than plowing and pushing it on the side of the road. Some concern with that going into the detention basin. (**Paul**) We owe the Board one final level of detail; I'd like to make a proposition on the landscape side of this. We would like to embark upon the landscape architect's plan. We would like to repurpose a simplified concept that would avoid having to predetermine the location of every tree and nuance and solution on all these acres. In a nutshell, we have 3 areas and we would like to apply them universally to the developed area to the site. The first is a private area that is under the hospices of the individual homeowner. They could plant what they want as long as they weren't planting any invasive species that weren't causing any environmental issues. We're projecting 400 sq. ft., a 20x20 space, basically a little garden area. Beyond that, we've designated a 2<sup>nd</sup> area which we call transition buffer which is really a melding of what is existing there and orchestrating ~ I have to go back to the trails of Wayside by way of illustration where we applied this and it worked very well <goes over illustrations>...The 3<sup>rd</sup> area is hands-off, the conservation area. The theory is as you move away from the house where you have your most articulated to the secondary area, which is a blending, to the third area that is the open space. It makes for a nice transition and has been very successful for us. Two houses, under OSRD By-Law, can be as close as 45 ft. to each other. The idea is to maintain an Area 2 transition, which is an under story planting, and if we have the welcome ability to have some significant trees in that area to make sure that they provide buffer. Without going to much into it, it's hard to talk about without seeing a little detail, what I'd like to propose to the Board is to do a couple of things for our next hearing. <points to plans> Go back to the area here, which I think all of us felt was probably the most difficult and most challenging, take a lot or 2 and apply these guidelines to it in a much more larger scale plan, so you can really see what is going on: address driveways, address relative steepness, it would give us a better understanding of what this means and that at that time, if it seems like a good idea, we can go ahead and apply it to the site overall. We have the ability to look at it and tune it up as the Board sees fit. That would also answer the question as to what modification are we having to look at in terms of this new access road, so we would be doing 3 things at once. Unless the Board says 'no', I'd like to propose taking that step. (**Ann**) You have 3 zones to which there are different landscape guidelines ~ is this 20x20, this 400 sq. ft., common area in the condominium? (**Paul**) In terms of origin, it's common. In terms of use, it's private. It will be described as the under the sole control of the owner, although that underlying ground is centrally is common. (**Ann**) Is this 400 sq. ft. the only space plus paving that you're excluding from your definition of Open Space when you made the statement 60% of the site is set aside Open Space? (**Paul**) No, the 60% is strictly

outside the lots. **(Helen)** The next step would be for you to be to take those 2 lots and use them as a model. **(Jay)** We need an extension. **(Larry)** I'd like to propose to the Board that the GZA final report is not available in the office by the 23<sup>rd</sup> at 3:00, we can reschedule. We have to have a fair amount time to review this with an extensive report and I don't see any reason in going to another meeting without it. **(Helen)** Public Hearing will be continued until Tuesday, October 28.

- III. **(Helen)** Pursuant to Sections 81T and 81U of Chapter 41 of the Mass General Laws, Rules and Regulations, Governing Subdivision of land in Framingham, January, 2000 of Section 8 of Article 6 of the Framingham General By-Laws, the Planning Board will hold a Public Hearing on Tuesday, October 14 at 9:00 p.m. The Public Hearing will be held to consider the application for Definitive Subdivision Plan Approval and for Public Way Access for FabCo Enterprises, Inc. for Approval of a By-Law Definitive Subdivision Plan at Brook bury, located at 97 Brook Street, said parcel is shown on Framingham on Sheet 377, Block 106, Block 4,5,8,10, and part of 6 and 7, the Finkle family residence is at 3. The plan was prepared by McCarthy and Sullivan Engineering and is on file for view in the Planning Board office. This Public Hearing Announcement was public in the Metro West Daily News on September 30 and October 7.

**(Helen)** For the record, please state your name and affiliation.

Joe Sullivan, McCarthy and Sullivan Engineering and ??Bianci, ????

**(Helen)** We've been through the preliminary subdivision hearing process, so what I'd like to do tonight is for you to give us a refresher course and inform us of anything that has changed since the preliminary. **(Joe)** The property is located on Brook Street <points to plan>. The property is mostly land that the church has not used; a portion of it is through the existing parking lot. The road goes in just over 400 ft. to the dead end. The original preliminary plan had 5 lots; the definitive plan has 4 lots, so there is 1 lot left. It is a 60 ft. lot wide road layout, it has town sewer, town water, the drainage system is designed of what we call 'leeching galleys, in catch basins to collect the water, it is designed for 100 year storm frequency, which exceeds the By-Laws, which are 25 year storms. It does overflow pipes of wood in the case of a larger frequency storm, overflowing into the draining system. Up until that storm, it would totally leech and that entire backup has been submitted with the application, it's a pretty excessive drainage report. The only thing that we know of that came out of the staff meeting was a question on the water. The dead end road was showing a dead end water line. The fire department has determined that the line has to be looped as far as they are concerned. The water is actually serving 3 houses. We are proposing a fire hydrant right at the intersection and also another fire hydrant at the end of the road. We have a situation where we just have no idea where we can loop the water, we have no place to put. We could go up one side of the road and down the other, but it seems pretty foolish. They are worried about stagnant water. The 3 houses will use all the water that is in that pipe easily every day. We proposed bringing the fire hydrant back into the beginning of the circle so that they could all flow right into the catch basin to clean it out if they had to. We don't feel it's

going to get stagnant. As far as fire protection, we are putting a fire hydrant up on Brook Street and the road is only 414 ft. long so that is well within the 500 ft distance. In the staff meeting, we were very willing to do whatever you want us to, but please give us some direction and all we heard was loop it. That is the biggest problem I know of.

**(Jay)** I would like to briefly mention the staff report that we received and one we received from Conservation and they don't have any issues with the project. The Planning and Economic Development Department reflects that sufficient crosswalks are provided to pedestrians at the 4-way intersection on Brook Street. The Fire Department sent 2 letters of correspondence: one was that the egress was sufficient to the property and then there was a concern with looping the water main and they've gone as far to deny the plans at this point. I would note that we are still awaiting Public Works Engineering input that would cover some of those items. I did receive a letter from Inspectional Services and they note that the district this is located in would require subdivision approval. The only one I was surprised at is that they posed the question to us that the applicant should demonstrate that the church has adequate parking and it was my impression that they had given some sense to the applicant that it had sufficient parking, so that needs to be worked on and clarified. **(Joe)** I have assurance of the church and rectory, how many people are allowed in there, and I'll write up a paragraph, essentially what it is that by that permit and the By-Law we only need 99 parking spaces and there is somewhere around 130 but I'll get documentation on that. **(Jay)** I would like to see comments from the BOH.

### **Q&A with the Board Members**

**(Carol)** In regards to the size of the 60 ft. wide road layout, it's not compatible with the existing street neighborhood. Did you ask whether you would get approval or support in requesting a waiver of the street width? **(Joe)** We didn't, we were trying to do it without asking for waivers. You are right though, Brook Street is 40 ft., and the pavement without a 60 ft. layout is only 24 ft. It doesn't make much difference to us which one we get; it's not going to give us any more lots. I know if we go to 40 ft., Engineering is going to ask for a 10 ft. easement on each side, so it doesn't change anything: the electric, telephone, cable ~ so we sort of figured we were going to have a 60 ft. layout anyway, either with the easement, so we just went with the 60 ft. **(Carol)** My specific concern would be that the pavement be compatible with the neighborhood. We are very concerned about preserving neighborhood character and rural character, especially with new developments and as for policy matter I would hope we could apply that philosophy and a support waiver if it was useful. **(Joe)** Essentially, the old regulations for a 40 ft. way required 26 ft. of paving. I could scale up Brook Street. The 60 ft. way only requests 24 ft. of paving, so the paving is compatible; it's just the layout. **(Carol)** I would suggest you find some meaningful no cut zones <of the large trees> where the footpath is going towards the aqueduct.

### **More Q&A with the Board Members**

### **Q&A with the Residents**



(**Jay**) We need to get comments from Public Works and Engineering. This could have been more productive, in particular, this drainage. These are elements we can't make a decision on until we get that letter. It's just not clear to me where the property line is. The other concern I had was with the grading of the lots. (**Helen**) We are going to move the Public Hearing for November 18 at 9:15 p.m.

#### **Loews Site, Review of Development Plan**

(**Jay**) They called and they don't have the final set of plans on Loews that they requested the number of changes, but why don't we take a look at the plans.

#### **Discussion on Loews Site by Board Members**

(**Jay**) They would like to come in on October 21 with their revised plans. Why don't we say 10:00 p.m.? (**Helen**) Any other administrative items?

#### **Discussion by Board Members about various problems re: 593, objectives and suggestions re: policies.**

**Motion by Helen Lemione to adjourn. Motion seconded by Jay Grande. (Helen) All those in favor? Thank you.**

Respectfully submitted,

Jennifer Adams  
Recording Transcriptionist

*\*These minutes were approved as transcribed at the Framingham Planning Board meeting of February 8, 2005.*

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*Thomas F. Mahoney, Chairman*